

111TH CONGRESS  
2D SESSION

# S. 3318

To amend title XVIII of the Social Security Act to eliminate contributing factors to disparities in breast cancer treatment through the development of a uniform set of consensus-based breast cancer treatment performance measures for a 6-year quality reporting system and value-based purchasing system under the Medicare Program.

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IN THE SENATE OF THE UNITED STATES

MAY 5, 2010

Mrs. GILLIBRAND introduced the following bill; which was read twice and referred to the Committee on Finance

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## A BILL

To amend title XVIII of the Social Security Act to eliminate contributing factors to disparities in breast cancer treatment through the development of a uniform set of consensus-based breast cancer treatment performance measures for a 6-year quality reporting system and value-based purchasing system under the Medicare Program.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Eliminating Dispari-  
5       ties in Breast Cancer Treatment Act of 2010”.

1 **SEC. 2. FINDINGS.**

2 Congress finds the following:

3 (1) Delays in receiving care after breast cancer  
4 diagnosis are reported to be greater for African-  
5 American women than White women.

6 (2) Recent studies indicate that African-Amer-  
7 ican women with breast cancer are less likely to re-  
8 ceive standard therapy than White women.

9 (3) African-American and Hispanic patients are  
10 significantly more likely than White patients to be  
11 diagnosed at a more advanced stage of breast can-  
12 cer.

13 (4) Investigators found that regardless of insur-  
14 ance status, African-American women are 1.9 times  
15 more likely to be diagnosed with an advanced stage  
16 of breast cancer than White women and Hispanic  
17 women are 1.4 times more likely to be diagnosed  
18 with an advanced stage of breast cancer than White  
19 women.

20 (5) African-American women are ten percent  
21 more likely not to receive tests to determine if breast  
22 cancer has spread to axillary (underarm) lymph  
23 nodes. Studies show that health insurance status,  
24 race, income, and educational background are di-  
25 rectly linked to irregularity in administering this  
26 vital screening.

1           (6) According to American Cancer Society re-  
 2           searchers, substantial disparities remain or persist  
 3           regarding cancer diagnosis and treatment.

4 **SEC. 3. PURPOSE.**

5           The purpose of this Act is to promote the implemen-  
 6           tation of standardized health care practices for breast can-  
 7           cer treatment under the Medicare program to eliminate  
 8           disparities in the provision of care to such patients based  
 9           on race, level of education, income, and health insurance  
 10          status of such patients.

11 **SEC. 4. CONSENSUS-BASED BREAST CANCER TREATMENT**  
 12                           **PERFORMANCE MEASURES SYSTEM UNDER**  
 13                           **MEDICARE.**

14          Title XVIII of the Social Security Act is amended by  
 15          adding at the end the following new section:

16 **“SEC. 1899. BREAST CANCER TREATMENT PERFORMANCE**  
 17                           **MEASURES SYSTEM.**

18          “(a) IN GENERAL.—Not later than October 1, 2010,  
 19          the Secretary shall establish, in accordance with the provi-  
 20          sions of this section, a 6-year breast cancer treatment  
 21          quality performance system (in this section referred to as  
 22          the ‘system’) to—

23                   “(1) assess and publicly disclose, through the  
 24          use of quality measures, the quality of care provided

1 for the treatment of breast cancer by specified  
2 health care providers; and

3 “(2) beginning October 1, 2013, base payment  
4 under this title to such providers for such treatment  
5 on the performance of such providers based on such  
6 measures.

7 “(b) SPECIFIED HEALTH CARE PROVIDERS.—

8 “(1) IN GENERAL.—The Secretary shall specify  
9 classes of providers of services and suppliers, includ-  
10 ing hospitals, cancer centers, physicians, primary  
11 care providers, and specialty providers, to which the  
12 provisions of this section shall apply.

13 “(2) DEFINITION.—For purposes of this sec-  
14 tion, the term ‘specified health care provider’ means  
15 a provider of services or supplier specified under  
16 paragraph (1).

17 “(c) IDENTIFICATION AND ENDORSEMENT OF  
18 BREAST CANCER TREATMENT PERFORMANCE MEAS-  
19 URES.—

20 “(1) IN GENERAL.—Under the system, the Sec-  
21 retary, shall enter into agreements with the National  
22 Quality Forum, an organization that operates as a  
23 voluntary consensus standards body as defined for  
24 purposes of section 12(d) of the National Tech-  
25 nology Transfer and Advancement Act of 1995

1 (Public Law 104–113) and Office of Management  
2 and Budget Revised Circular A–119 (published in  
3 the Federal Register on February 10, 1998), under  
4 which the National Quality Forum shall identify a  
5 uniform set of consensus-based performance meas-  
6 ures to evaluate the quality of care provided by spec-  
7 ified health care providers for the treatment of  
8 breast cancer, endorse such set of measures through  
9 its multistakeholder consensus development process,  
10 and annually update such set of measures.

11 “(2) MEASURES DESCRIBED.—The set of meas-  
12 ures described in paragraph (1) shall include, with  
13 respect to the treatment of breast cancer, measures  
14 of patient outcomes, the process for delivering med-  
15 ical care related to such treatment, patient coun-  
16 seling and engagement in decisionmaking, patient  
17 experience of care, resource use, and practice capa-  
18 bilities, such as care coordination.

19 “(d) REPORTING PROCESS.—

20 “(1) IN GENERAL.—Under the system, for peri-  
21 ods (as specified by the Secretary) beginning on or  
22 after October 1, 2010, the Secretary shall establish  
23 a reporting process, with respect to treatment fur-  
24 nished for breast cancer, that provides for a method  
25 for specified health care providers to submit to the

Secretary data on the performance of such providers during each period through use of the performance measures developed pursuant to subsection (c)(1). Such data shall be submitted in a form and manner and at a time specified by the Secretary.

“(2) VOLUNTARY SUBMISSION DURING INITIAL 3 YEARS.—The reporting process under paragraph (1) shall provide for the voluntary submission of data (and incentives for such submission) under the process for periods ending before October 1, 2013.

“(3) CHARACTERISTICS OF DATA SUBMITTED UNDER REPORTING PROCESS.—Data submitted by a specified health care provider under the reporting process under paragraph (1) shall—

“(A) take into account the quality of breast cancer treatment furnished to all patients of the provider, regardless of the type of health insurance coverage of the patient or whether or not the patient has such coverage; and

“(B) be structured in a manner that allows for comparison according to race, educational level, income, insurance status, and any other category specified by the Secretary.

1       “(e) PUBLIC DISCLOSURE.—Under the system, the  
 2 Secretary shall establish procedures to require that infor-  
 3 mation with respect to the quality demonstrated by a spec-  
 4 ified health care provider of treatment furnished for breast  
 5 cancer during a period (based on the performance meas-  
 6 ures data submitted pursuant to subsection (c)(1) by the  
 7 provider for such period) is made available on the official  
 8 public Internet site of the Department of Health and  
 9 Human Services in a clear and understandable form. Such  
 10 procedures shall ensure that a specified health care pro-  
 11 vider has the opportunity to review the information that  
 12 is to be made public with respect to the provider at least  
 13 30 days prior to such data being made public and shall  
 14 provide for an appeals process in the case a provider  
 15 claims such information to be incorrect or incomplete.

16       “(f) VALUE-BASED PURCHASING FOR PERIODS BE-  
 17 GINNING OCTOBER 1, 2013.—

18               “(1) IN GENERAL.—Under the system, for peri-  
 19 ods beginning on or after October 1, 2013, and end-  
 20 ing before October 1, 2016, the Secretary shall es-  
 21 tablish and implement, a value-based purchasing  
 22 program, with respect to specified health care pro-  
 23 viders that furnish treatment for breast cancer dur-  
 24 ing such a period, under which—

1 “(A) in the case of such a provider that  
2 does not submit data in accordance with the re-  
3 porting process under subsection (d)(1) for  
4 such treatment furnished during such period,  
5 the Secretary shall reduce payment under this  
6 title for such treatment by an amount specified  
7 by the Secretary; and

8 “(B) in the case of such a provider that  
9 submits data in accordance with the reporting  
10 process under subsection (d)(1) for such treat-  
11 ment furnished during such period—

12 “(i) subject to clause (ii), if the Sec-  
13 retary determines such provider furnished  
14 low quality care (in accordance with a  
15 method specified by the Secretary) for  
16 such treatment, the Secretary shall reduce  
17 the amount that would otherwise be paid  
18 to such provider under this title for such  
19 treatment by an amount specified by the  
20 Secretary;

21 “(ii) if the Secretary determines such  
22 provider furnished low quality care (in ac-  
23 cordance with the method specified under  
24 clause (i)) for such treatment, but the  
25 quality of care has improved as compared



1 to the quality of care the provider fur-  
2 nished during the previous period, the Sec-  
3 retary shall reduce the amount that would  
4 otherwise be paid to such provider under  
5 this title for such treatment in accordance  
6 with an incremental method established by  
7 the Secretary that ensures that the amount  
8 of such reduction—

9 “(I) is less than the amount  
10 specified by the Secretary under  
11 clause (i); and

12 “(II) is based on the extent of  
13 improvement in the quality of care;  
14 and

15 “(iii) if the Secretary determines such  
16 provider did not furnish low quality care  
17 (in accordance with the method specified  
18 under clause (i)) for such treatment, the  
19 Secretary shall provide to such provider  
20 the amount to be paid to such provider  
21 under this title for such treatment.

22 “(2) RESULTS-BASED PAYMENTS.—The amount  
23 of a reduction under subparagraph (A) or (B)(i) of  
24 paragraph (1) shall be determined in accordance  
25 with a method established by the Secretary.

1 “(g) REPORTS.—Not later than October 1, 2011, and  
2 for each 6-month period thereafter (before fiscal year  
3 2017), the Secretary shall submit to Congress a report  
4 that evaluates the development and implementation of the  
5 system, including—

6 “(1) an evaluation of the number of specified  
7 health care providers that submit data pursuant to  
8 subsection (c)(1);

9 “(2) an analysis of the effect of such system on  
10 reducing disparities in the provision of breast cancer  
11 treatment to patients based on race, level of edu-  
12 cation, income, and health insurance status of such  
13 patients; and

14 “(3) recommendations on whether (and to what  
15 extent) to extend the system under this section.

16 “(h) APPLICATION TO PART C.—The Secretary shall  
17 provide for a method to apply the provisions of this section  
18 to treatment furnished under a plan under part C.”.

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